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FISCAL IMPACT STATEMENT

LS 6165

BILL NUMBER: SB 87

NOTE PREPARED: Dec 2, 2007

BILL AMENDED:

SUBJECT: Type II Gaming.

FIRST AUTHOR: Sen. Arnold

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: The bill authorizes pull tabs, punchboards, and tip boards in establishments licensed to sell alcoholic beverages to customers for consumption on the licensed premises. It also makes an appropriation.

Effective Date: July 1, 2008.

Explanation of State Expenditures: Under the bill, the Indiana Gaming Commission (IGC) is given the power and duty to administer, regulate, and enforce the operation of Type II gambling games in alcoholic beverage retail establishments. The bill defines a Type II gambling game as a pull tab (ticket or card), punchboard, or tip board game. The bill creates three licenses: (1) a retailer's license to conduct Type II gambling games; (2) a distributor's license to distribute the Type II gambling games in Indiana; and (3) a manufacturer's license to manufacture Type II gambling games in Indiana. Under the bill, investigative costs for a Type II gambling retailer's license is to be paid by the license applicant. To obtain a license to be a distributor or manufacturer of Type II gambling games, an applicant must already be licensed by the IGC as a distributor or manufacturer of pull tabs, punchboards, and tip boards for purposes of charity gaming in Indiana.

The bill annually appropriates sufficient revenue from the Type II Gaming Enforcement Fund to the IGC to cover the cost of administering Type II gambling at alcoholic beverage retail establishments.

Explanation of State Revenues: *License Fees* - The bill creates a retailer's license to conduct Type II gambling games; and licenses to distribute or to manufacture Type II gambling games in Indiana. Type II gambling games are pull tab (tickets or cards), punchboard, and tip board games.

The retailer's license could be obtained by an alcohol beverage retail permit and club permit holder, including beer retailers, wine retailers, liquor retailers, restaurants, hotels, and social and fraternal clubs. The bill prohibits horse racetracks, OTBs, riverboat casinos, and racetrack casinos from obtaining a retailer's license. The annual fee for a retailer's license is \$250. The number of alcoholic beverage retail permit holders that could potentially apply for a retailer's license is indeterminable. There may be as many as 5,600 permit holders that would obtain a license to conduct Type II gaming under this bill. If half of these establishments obtained a retailers license, license revenue would total about \$700,000 annually. If all of these establishments obtained a retailer's license, license revenue would total about \$1.4 M annually. (Note: There are currently about 6,300 qualified alcohol beverage permit holders, excluding permit holders that are chain restaurants, chain hotels, or golf course establishments. Based on FY 2006 charity gaming licensee totals, there are also about 700 social and fraternal organizations that hold annual charity gaming licenses to conduct bingo and sell pull tabs, punchboards and tip boards. The potential Type II gaming licensee totals above assume that these social and fraternal organizations also hold alcohol beverage retail permits.) Any change of social and fraternal organizations from charity gaming licenses to the Type II gaming retailer's licenses would result in a reduction in charity gaming license revenue. The potential reduction that could occur is indeterminable. However, it would reduce charity gaming revenue distributed to the Build Indiana Fund.

The distributor's license and manufacturer's license could be obtained by a person licensed as a distributor or manufacturer for purposes of charity gaming in Indiana. The annual license fee for a distributor is \$1,000, and for a manufacturer is \$1,500. Based on FY 2006 licensing of charity gaming product distributors and manufacturers, these license fees could potentially generate about \$77,000 annually. In FY 2006 there were 53 licensed distributors and 16 licensed manufacturers of charity gaming products.

Type II Gaming Enforcement Fund - The bill requires revenues from license fees and civil penalties to be deposited in the Fund. Money in the Fund does not revert to the state General Fund. The bill provides that money in the Fund is annually appropriated to the Indiana Gaming Commission to cover the cost of administering Type II gaming. The bill does not provide for any other expenditure of money in the Fund.

Other Revenue - The bill could potentially increase sales of pull tab, punchboard, and tip board games, increasing income tax revenue from any manufacturers and distributors located in Indiana. Conducting these games also could increase the income of the retailers, resulting in increased income tax revenue. Revenue from the Adjusted Gross Income (AGI) Tax is deposited in the state General Fund and the Property Tax Replacement Fund.

If allowing operation of pull tab, punchboard, and tip board games in alcoholic beverage retail establishments increases sales, revenue from the Alcoholic Beverage Excise Tax may increase. Alcoholic Beverage Excise Tax revenue is deposited in the state General Fund, the Post War Construction Fund, the Alcohol and Tobacco Commission's Enforcement and Administration Fund, the Pension Relief Fund, the Addiction Services Fund, and the Wine Grape Market Development Fund.

Penalty Provisions - Class A Misdemeanor: The bill establishes a Class A misdemeanor for: (1) making false statements on an application for a license; (2) operating Type II gambling games in a manner other than required by law; (3) permitting gambling by persons under 21 on Type II gambling games; and (4) accepting wagers on Type II gambling games off the retailer's licensed premises.

If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines

are deposited in the Common School Fund.

If the case is filed in a circuit, superior, or county court, 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$17), public defense administration fee (\$3), court administration fee (\$3), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) are deposited into the state General Fund.

Civil Penalties: The bill also allows the IGC to levy a civil penalty against a licensee for specified violations of the Type II gambling law. The penalty can't exceed \$1,000 for the first violation; \$2,500 for the second violation; and \$5,000 for each additional violation. Penalties would be deposited in the Type II Gaming Enforcement Fund.

Explanation of Local Expenditures: *Penalty Provisions* - A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: *Penalty Provisions* - If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: Indiana Gaming Commission.

Local Agencies Affected: Cities, towns, and counties; trial courts and local law enforcement agencies.

Information Sources: Vicki Stephens, Alcohol and Tobacco Commission, (317) 232-2436; *Charity Gaming Annual Report, FY 2005 and FY 2006*, Indiana Gaming Commission; Indiana Sheriffs' Association; Department of Correction.

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